

2012

STATE OF NEBRASKA

**STATUTES RELATING TO
RESPIRATORY CARE PRACTICE ACT**

Department of Health & Human Services



Department of Health and Human Services
Division of Public Health
Licensure Unit

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- 71-1,232. Repealed. Laws 2003, LB 245, s. 19.
- 71-1,233. Transferred to section 38-3210.
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- 71-1,235. Transferred to section 38-3208.
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- 71-1,237. Repealed. Laws 2003, LB 242, s. 154.

STATUTES PERTAINING TO THE RESPIRATORY CARE PRACTICE ACT

38-3201. Act, how cited. Sections 38-3201 to 38-3216 shall be known and may be cited as the Respiratory Care Practice Act.

Source: Laws 2007, LB463, § 1067. Operative date December 1, 2008.

38-3202. Definitions, where found. For purposes of the Respiratory Care Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-3203 to 38-3206 apply.

Source: Laws 2007, LB463, § 1068. Operative date December 1, 2008.

38-3203. Board, defined. Board means the Board of Respiratory Care Practice.

Source: Laws 2007, LB463, § 1069. Operative date December 1, 2008.

38-3204. Medical director, defined. Medical director means a licensed physician who has the qualifications as described in section 38-3214.

Source: Laws 2007, LB463, § 1070. Operative date December 1, 2008.

38-3205. Respiratory care, defined. Respiratory care means the health specialty responsible for the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. Respiratory care shall not be limited to a hospital setting and shall include the therapeutic and diagnostic use of medical gases, administering apparatus, humidification and aerosols, ventilatory assistance and ventilatory control, postural drainage, chest physiotherapy and breathing exercises, respiratory rehabilitation, cardiopulmonary resuscitation, and maintenance of nasal or oral endotracheal tubes. Respiratory care shall also include the administration of aerosol and inhalant medications to the cardiorespiratory system and specific testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment, and research. Such techniques shall include, but not be limited to, measurement of ventilatory volumes, pressures, and flows, measurement of physiologic partial pressures, pulmonary function testing, and hemodynamic and other related physiological monitoring of the cardiopulmonary system.

Source: Laws 2007, LB463, § 1071. Operative date December 1, 2008.

38-3206. Respiratory care practitioner, defined. Respiratory care practitioner means:

(1) Any person employed in the practice of respiratory care who has the knowledge and skill necessary to administer respiratory care to patients of all ages with varied cardiopulmonary diseases and to patients in need of critical care and who is capable of serving as a resource to the physician and other health professionals in relation to the technical aspects of respiratory care including effective and safe methods for administering respiratory care; and

(2) A person capable of supervising, directing, or teaching less skilled personnel in the provision of respiratory care services.

Source: Laws 1986, LB 277, § 9; Laws 1999, LB 828, § 138; Laws 2003, LB 242, § 61; R.S.1943, (2003), § 71-1,227; Laws 2007, LB463, § 1072. Operative date December 1, 2008.

38-3207. Board; membership; qualifications. Membership on the board shall consist of two respiratory care practitioners, one physician, and one public member.

Source: Laws 2007, LB463, § 1073. Operative date December 1, 2008.

38-3208. Practices not requiring licensure. The Respiratory Care Practice Act shall not prohibit:

(1) The practice of respiratory care which is an integral part of the program of study by students enrolled in approved respiratory care education programs;

(2) The gratuitous care, including the practice of respiratory care, of the ill by a friend or member of the family or by a person who is not licensed to practice respiratory care if such person does not represent himself or herself as a respiratory care practitioner;

(3) The practice of respiratory care by nurses, physicians, physician assistants, physical therapists, or any other professional licensed under the Uniform Credentialing Act when such practice is within the scope of practice for which that person is licensed;

(4) The practice of any respiratory care practitioner of this state or any other state or territory while employed by the federal government or any bureau or division thereof while in the discharge of his or her official duties;

(5) Techniques defined as pulmonary function testing and the administration of aerosol and inhalant medications to the cardiorespiratory system as it relates to pulmonary function technology administered by a

registered pulmonary function technologist credentialed by the National Board for Respiratory Care or a certified pulmonary function technologist credentialed by the National Board for Respiratory Care; or

(6) The performance of oxygen therapy or the initiation of noninvasive positive pressure ventilation by a registered polysomnographic technologist relating to the study of sleep disorders if such procedures are performed or initiated under the supervision of a licensed physician at a facility accredited by the American Academy of Sleep Medicine.

Source: Laws 1986, LB 277, § 17; Laws 1997, LB 622, § 83; Laws 2003, LB 242, § 64; Laws 2003, LB 667, § 5; R.S.1943, (2003), § 71-1,235; Laws 2007, LB463, § 1074. Operative date December 1, 2008.

38-3209. License; application; requirements. (1) An applicant for a license to practice respiratory care shall submit to the department written evidence that the applicant has completed a respiratory care educational program accredited by the Commission on Accreditation of Allied Health Education Programs in collaboration with the Committee on Accreditation for Respiratory Care or its successor or by an accrediting agency approved by the board.

(2) In order to be licensed, initial applicants shall pass an examination approved by the board.

Source: Laws 1986, LB 277, § 13; Laws 2002, LB 1062, § 38; R.S.1943, (2003), § 71-1,231; Laws 2007, LB463, § 1075. Operative date December 1, 2008.

38-3210. Practicing respiratory care practitioners; license issued; conditions. The department, with the recommendation of the board, shall issue a license to perform respiratory care to an applicant who, on or before July 17, 1986, has passed the Certified Respiratory Therapy Technician or Registered Respiratory Therapist examination administered by the National Board for Respiratory Care or the appropriate accrediting agency acceptable to the board.

Source: Laws 1986, LB 277, § 15; Laws 1988, LB 1100, § 84; Laws 2003, LB 245, § 15; R.S.1943, (2003), § 71-1,233; Laws 2007, LB463, § 1076. Operative date December 1, 2008.

38-3211. Applicant for licensure; continuing competency requirements. An applicant for licensure to practice respiratory care who has met the education and examination requirements in section 38-3209, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.

Source: Laws 2007, LB463, § 1077. Operative date December 1, 2008.

38-3212. Applicant for licensure; reciprocity; continuing competency requirements. An applicant for licensure to practice respiratory care who has met the standards set by the board pursuant to section 38-126 for a license based on licensure in another jurisdiction but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.

Source: Laws 2007, LB463, § 1078. Operative date December 1, 2008.

38-3213. Fees. The department shall establish and collect fees for credentialing under the Respiratory Care Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 1079. Operative date December 1, 2008.

38-3214. Respiratory care service; requirements. Any health care facility or home care agency providing inpatient or outpatient respiratory care service shall designate a medical director, who shall be a licensed physician who has special interest and knowledge in the diagnosis and treatment of respiratory problems. Such physician shall (1) be an active medical staff member of a licensed health care facility, (2) whenever possible be qualified by special training or experience in the management of acute and chronic respiratory disorders, and (3) be competent to monitor and assess the quality, safety, and appropriateness of the respiratory care services which are being provided. The medical director shall be accessible to and assure the competency of respiratory care practitioners and shall require that respiratory care be ordered by a licensed physician, a licensed physician assistant, a nurse practitioner as defined in section 38-2312, or a certified registered nurse anesthetist as defined in section 38-704, who has medical responsibility for any patient that needs such care.

Source: Laws 1986, LB 277, § 11; R.S.1943, (2003), § 71-1,229; Laws 2007, LB463, § 1080; Laws 2012, LB788, § 1. Effective Date: July 19, 2012.

38-3215. Practice of respiratory care; limitations. The practice of respiratory care shall be performed only under the direction of a medical director and upon the order of a licensed physician, a licensed physician assistant, a nurse practitioner as defined in section 38-2312, or a certified registered nurse anesthetist as defined in section 38-704.

Source: Laws 1986, LB 277, § 12; R.S.1943, (2003), § 71-1,230; Laws 2007, LB463, § 1081; Laws 2012, LB788, § 2. Effective Date: July 19, 2012.

38-3216. Respiratory care practitioner; subject to facility rules and regulations; when. In the event a respiratory care practitioner renders respiratory care in a hospital or health care facility, he or she shall be subject to the rules and regulations of that facility. Such rules and regulations may include, but not be limited to, reasonable requirements that the respiratory care practitioner maintain professional liability insurance with such coverage and limits as may be established by the hospital or other health care facility upon the recommendation of the medical staff.

Source: Laws 1986, LB 277, § 18; R.S.1943, (2003), § 71-1,236; Laws 2007, LB463, § 1082. Operative date December 1, 2008.

71-1,227. Transferred to section 38-3206.

71-1,228. Repealed. Laws 2007, LB 463, § 1319.

71-1,229. Transferred to section 38-3214.

71-1,230. Transferred to section 38-3215.

71-1,231. Transferred to section 38-3209.

71-1,232. Repealed. Laws 2003, LB 245, s. 19.

71-1,233. Transferred to section 38-3210.

71-1,234. Repealed. Laws 2007, LB 463, § 1319.

71-1,235. Transferred to section 38-3208.

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